8   controlling the allocation by the first transceiver of the non-real-time packet data to an

9   output data stream comprising the real-time data when the data rate of the real-time data stream

10   is less than the full data capacity of the dual mode channel, and

11   controlling the first transceiver to transmit the output data stream over the channel

12   wherein the real-time data comprises speech data and the first station comprises a speech

13   coding system which prepares the speech data for transmission from a speech input, and the

14   method further comprises determining from the speech coding system the timing of interruptions

15   in the speech data stream.

REMARKS

Claims 1 and 7 have been amended to incorporate the limitations of claims 3 and 8.
Claims 3 and 8 have been canceled.

The rejection of former claims 3 and 8 over Blakeney is respectfully traversed. The
Examiner finds the recitations of these claims inherent in Blakeney, but fails to indicate what
part of Blakeney specifically teaches or suggests the limitations of these claims . Applicants
respectfully disagree that the recitations of these claims are inherent to Blakeney. The controller
might have other ways to determine when there is excess capacity in the channel other than
receiving timing data from coding system. *In re Lee*, 277 F. 3d. 1338 (Fed. Cir. 2002) requires
finding of obviousness to come from the reference, not from the Examiner. 37 CFR 1.104 also
requires that when a reference is complex, like Blakeney, the Examiner needs to indicate what
part is relied upon. The parts pointed to by the Examiner are peripheral to the actual recitations
at issue. They are just reference numerals of the controller and coding system. Moreover
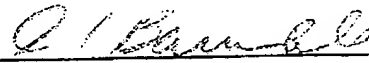columns 27-29 cited by the Examiner do not even exist.

Any other rejections would appear to be moot in view of the above.

Applicant respectfully submits that he has answered each issue raised by the Examiner and that the application is accordingly in condition for allowance. Allowance is therefore respectfully requested.

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited this date with the United States Postal Service as first class mail in an envelope addressed to

Commissioner of Patents and Trademarks
Washington, D.C. 20231

On _____(date)
By_____(signature)

</td><td>

Respectfully submitted,

By _____
Anne E. Barschall, Reg. No. 31,089
Tel. no. 914-332-1019
Fax no. 914-332-7719
May 2, 2003

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MARKED UP VERSION OF CLAIMS

1. (amended) A telecommunications system suitable for transmitting real-time data and non-real-time packet data, comprising

a first and a second communication station, and

[having] a dual mode channel for communication of both the real-time and the non-real-time data from the first to the second station,

wherein

the first station comprises a first transceiver which is operable to transmit both the real-time and the non-real-time data,

the second station comprises a second transceiver which is operable to receive the real-time and/or the non-real-time data, and

the first station further comprises a controller for generating an output data stream comprising the real-time data, the controller also allocating non-real-time packet data to the output data stream when the data rate of the real-time data is less than the full data capacity of the dual mode channel, which output data stream is transmitted by the transceiver over the channel

the first station comprises a speech coding system which prepares the speech data for transmission from a speech input, and

the controller receives timing information from the speech coding system indicating the timing of interruptions in the speech data stream .

7. (amended) A method of operating a telecommunications system suitable for transmitting real-time data and non-real-time packet data, the system comprising a first and a second communication station and having a dual mode channel for communication of both the real-time and non-real-time data from the first to the second station, the first station comprising a first transceiver which is operable to transmit both the real-time and the non-real-time data, the second station comprising a second transceiver which is operable to receive the real-time and/or non-real-time data, wherein the method comprises

controlling the allocation by the first transceiver of the non-real-time packet data to an output data stream comprising the real-time data when the data rate of the real-time data stream is less than the full data capacity of the dual mode channel, and

controlling the first transceiver to transmit the output data stream over the channel

wherein the real-time data comprises speech data and the first station comprises a speech coding system which prepares the speech data for transmission from a speech input, and the method further comprises determining from the speech coding system the timing of interruptions in the speech data stream.